

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

LISA BARBOUNIS,	:	NO. 2:19-cv-05030-JDW
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
THE MIDDLE EAST FORUM,	:	
DANIEL PIPES (individually), and	:	
GREG ROMAN (individually),	:	
Defendants.	:	
	:	
Defendant.	:	

STATEMENT OF UNDISPUTED FACTS

The following are the material facts of this case Plaintiff, Lisa Barbounis contends entitle her to judgment as a matter of law and are submitted in support of Plaintiff's Motion for Summary Judgment. These facts are either undisputed or are based upon an allegation made by Defendant, The Middle East Forum and accepted by Plaintiff as true for purposes of this Motion only.

1. Plaintiff, Lisa Barbounis initiated this action by civil action complaint on October 27, 2019 for claims arising from allegations of severe and pervasive discrimination and harassment in the workplace based upon Ms. Barbounis's sex and gender. (Document 1 generally).

2. During her employment for Defendant, Ms. Barbounis alleges she was subjected to non-stop, regular sexual harassment which included two acts of unwelcome physical contact of a sexual nature along with numerous requests for oral sex and inappropriate sex-based comments and conduct. Id.

3. On December 3, 2019, Defendant filed claims without damages based upon alleged breach of Defendant's NDA and Device Agreement; violations of the Pennsylvania Uniform Trade Secrets Act and Defend Trade Secrets Act of 2016; violations of the Computer Fraud and Abuse Act and Stored Communications Act; conversion; and breach of fiduciary duty. (Case 2:19-cv-05697-JS Document 91 p. 4 ¶ 1.)

4. On September 16, 2020, Defendant filed counterclaims against Plaintiff, Lisa Barbounis for (1) Breach of Duty of Loyalty, (2) civil conspiracy, (3) and fraudulent misrepresentation. (Document 53).

5. On January 22, 2021, Defendant, MEF filed yet another lawsuit in this federal court, based upon the same allegations as the instant counterclaims. For this third deficient lawsuit, MEF repacked the within counterclaims as violations of The Racketeer Influenced Corrupt Organizations Act (RICO) codified as 18 U.S.C. §1961 et seq. (Case 2:21-cv-00310-BMS Document 1).

6. First, Defendants counterclaims are highly dependent upon the hearsay statement of Daniel Thomas. See ¶¶ 3, 34, 36, 37, 41, 42, 43, 44, 45, 48, 49, 50, 51, 52, 54, 71, 74, 75, 78, 82, 83, 84, 89, 90, 98, and 116. (Document 53).

7. These twenty-six (26) paragraphs are taken from Exhibit A of Defendant's counterclaims which is a hearsay statement unsupported by the deposition testimony or declaration of Daniel Thomas. (Document 53-1).

8. A review of Defendant's counterclaims without these twenty-six paragraphs confirms its failure as a matter of law. Defendant's Counterclaims with all paragraphs upon which the hearsay statement of Daniel Thomas are stricken is attached and marked Plaintiff's Exhibit A.

9. Without the testimony of Daniel Thomas, MEF's counterclaims is nothing more than an amalgam of eclectic allegations which are either factually irrelevant and facially prejudicial, or unsupported by the record of evidence. Id.

10. By MEF's own admission in its counterclaims, Lisa Barbounis did not even know Daniel Thomas when the money was granted and allegedly misappropriated. (See Document 53 ¶ 31). See also the second deposition testimony of Patricia McNulty ("Tr 2 McNulty") attached and marked Plaintiff's Exhibit "C" p. 156 l. 14 – p. 157 l. 19.

11. Lisa Barbounis openly testified that she and Daniel Thomas engaged in a sexual relationship many months after her first trip to England and many months after Defendant alleges that Daniel Thomas stole money from MEF. See the second deposition testimony of Lisa Barbounis ("Tr 2 Barbounis") attached and marked Plaintiff's Exhibit "B" p. 293 l. -15.

12. Lisa Barbounis had no reason to know whether Daniel Thomas misappropriated money months before their relationship began. The granted money was spent on the rally by the time that Lisa Barbounis attended the rally for which the money was intended. Id. And see the second deposition testimony of Lisa Barbounis ("Tr 2 Barbounis") attached and marked Plaintiff's Exhibit "B" p. 314 l. 11 – p. 326 l.

13. The granted money was spent on the rally by the time that Lisa Barbounis attended the rally for which the money was intended. See Document 53 ¶ 31; Tr 2 McNulty attached and marked Plaintiff's Exhibit "C" p. 156 l. 14 – p. 157 l. 19.

14. Lisa Barbounis testified that Daniel Thomas's ex-girlfriend, Jazmin Bishop, accused Daniel Thomas of stealing some of the money that MEF granted to Daniel Thomas for the rally. Tr 2 Barbounis p. 314 l. 11 – p. 326 l. 18.

15. Lisa Barbounis also testified that soon after Jazmin Bishop lodged this allegation, she recanted it. Id.

16. Lisa Barbounis was left in the uncomfortable position of whether or not to bring an unsubstantiated rumor, started by a jealous ex-girlfriend, to the attention of The Middle East Forum; a rumor that was retracted by the same person who started it. Id.

17. MEF has not accused Lisa Barbounis of profiting from or even participating in the misappropriation of the granted money. (See Document 53 ¶ 31).

18. Indeed, Lisa Barbounis did not even know Daniel Thomas when these events may or may not have occurred. Id.

19. MEF has also taken no steps to recover the money from the person who MEF supposedly believes stole it: Daniel Thomas. See the deposition testimony of Daniel Pipes (“Tr Pipes”) attached and marked Plaintiff’s Exhibit “D” p. 275 l. 1 – p. 278 l. 2.

20. There is also the added issue of the credibility of Daniel Thomas who stated in recording that he was out to “fuckin’ testify against that cunt” and that Greg Roman offered something of value in exchange for his testimony. Id.

21. Defendant’s breach of duty of loyalty claim is predicated upon events to which Lisa Barbounis had no involvement. (See Document 53 ¶ 31).

22. Defendant, MEF’s civil conspiracy claim fails for the same reason as the breach of duty of loyalty claim. According to its counterclaim complaint (Document 53) Lisa Barbounis conspired with Daniel Thomas. (See Document 53 ¶ 141).

23. This allegation is confusing as MEF admits in Paragraph 31 (Doc 53) that Lisa Barbounis met Daniel Thomas for the first time after the money was granted and spent. Id. See also Tr 2 McNulty Exhibit C p. 156 l. 14 – p. 157 l. 19.

24. Indeed, Lisa Barbounis and Patricia McNulty confirmed MEF's counterclaim complaint testifying that they met Daniel Thomas for the first time at the rally for which the granted money was intended, and that they only said hello at the rally. Id. And see Tr 2 Barbounis attached and marked Plaintiff's Exhibit "B" p. 293 l. -15.

25. Patricia McNulty confirmed they only saw Daniel Thomas at the rally and did not see him again during that trip to England. Tr 2 McNulty Exhibit C p. 156 l. 14 – p. 157 l. 19.

26. Indeed, without the twenty-six (26) paragraphs included in the counterclaims which are only substantiated by the hearsay record of Defendant, Greg Roman (Document 53-), the counterclaims for civil conspiracy fall apart. Exhibit A.

27. Defendant's fraudulent misrepresentation count is based upon an allegation that Lisa Barbounis claimed she went to England for one personal reason, when she really went for another personal reason. The Declaration of Lisa Barbounis is attached and marked Plaintiff's Exhibit "E". And see Document 53 ¶¶ 150 – 156.

28. Defendant did not allege that Lisa Barbounis claimed she went to England for work. (Document 53 ¶¶ 1 – 156).

29. Defendant alleged that Lisa Barbounis claimed she went to England with her family, when she really went to England to visit a friend. Id.

30. Defendant did not pay for Lisa Barbounis to travel to England. Exhibit E.

31. Lisa Barbounis visited England on her own dime, a trip that had nothing to do with Defendant, MEF. Exhibit E.

32. Lisa Barbounis is a salaried employee so MEF cannot claim that Lisa Barbounis was paid any extra money during her travels. Tr Pipes attached and marked Plaintiff's Exhibit "D" p. 410 l. 1 – 10. See also Exhibit E.

33. Also, Lisa Barbounis used her personal Paid Time Off (PTO) time for this trip.

See Exhibit E.

Respectfully Submitted,

BY: /s/ Seth D. Carson
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